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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**

10 SHAWN ABRAUGH,

11 Plaintiff,

12 v.

13 WALMART, INC., et al.,

14 Defendants.

15 Case No. 1:23-cv-01387-SAB

16 ORDER DIRECTING CLERK OF COURT TO  
17 ASSIGN DISTRICT JUDGE TO CLOSE CASE  
18 AND ADJUST THE DOCKET TO REFLECT  
19 VOLUNTARY DISMISSAL PURSUANT TO  
20 RULE 41(a) OF THE FEDERAL RULES OF  
21 CIVIL PROCEDURE

22 (ECF No. 5)

23 Plaintiff initiated this action on September 22, 2023 against Defendants Walmart, Inc. and  
24 Gregory Hanes. (ECF No. 1.) Plaintiff did not file any proof of service and neither Defendant  
25 has appeared. In light of the scheduling conference set for January 4, 2024, the Court ordered a  
26 status report and continued the scheduling conference. (ECF No. 4.) On January 4, 2024,  
27 Plaintiff filed status report and a notice of voluntary dismissal of the entire action. (ECF Nos. 4,  
28 5.)

23 Under Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, “a plaintiff has an  
24 absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a  
25 motion for summary judgment.” Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193  
26 F.3d 1074, 1077 (9th Cir. 1999) (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir.  
27 1997)).

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1           In light of the notice of dismissal, this action has been terminated, Fed. R. Civ. P.  
2 41(a)(1)(A)(i); Wilson v. City of San Jose, 111 F.3d at 692, and has been dismissed without  
3 prejudice and without an award of costs or attorneys' fees.

4           Accordingly, the Clerk of the Court is HEREBY DIRECTED to assign a District Judge to  
5 this case for the purpose of closing the case and then to adjust the docket to reflect voluntary  
6 dismissal of this action pursuant to Rule 41(a).

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8 IT IS SO ORDERED.

9 Dated: January 5, 2024

  
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UNITED STATES MAGISTRATE JUDGE